

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

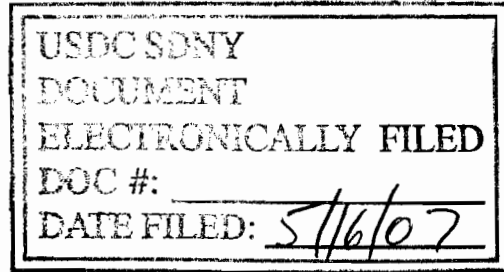
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NAACP LEGAL DEFENSE AND
EDUCATIONAL FUND, INC.,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT,

Defendant.
----- X



07 Civ. 3378 (GEL)

STIPULATION & ORDER

WHEREAS on March 21, 2007, the United States Department of Housing and Urban Development ("HUD") received a request from plaintiff under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), for documents relating to HUD's administration of the Community Development Block Grant ("CDBG") Disaster Recovery Grant Program with respect to Hurricanes Katrina and Rita (the "FOIA request");

WHEREAS plaintiff requested expedited processing of the FOIA request;

WHEREAS on March 22, 2007, HUD issued a letter acknowledging receipt of the FOIA request and explaining HUD's process for responding to FOIA requests;

WHEREAS on April 27, 2007, plaintiff filed a summons and complaint, and a motion for a preliminary injunction seeking an order directing HUD to grant expedited processing of the FOIA request and to produce all responsive records as well as an index pursuant to Vaughn v. Rosen, 484 F.2d 820, 826-828 (D.C. Cir. 1973), by May 24, 2007;

WHEREAS the FOIA request is divided into five numbered paragraphs with paragraphs 1 and 2 containing multiple subparts;

WHEREAS responding to the FOIA request will require the production of voluminous

numbers of documents; and

WHEREAS for purposes of this Stipulation and Order the term “respond” means produce records except to the extent that documents are withheld or redacted pursuant to applicable FOIA exemptions;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the parties as follows:

1. HUD grants plaintiff’s request for expedited processing of the FOIA request and agrees to a fee waiver for the production of records responsive to the FOIA request except to the extent plaintiff seeks the production of documents that are publicly available.
2. To the extent the FOIA request seeks publicly available records, HUD will respond to the FOIA request by providing plaintiff with information necessary to allow plaintiff to access the records. Should plaintiff request that HUD produce any or all of the publicly available records, HUD will not waive any fees with respect to those records.
3. With respect to any portion of the FOIA request seeking specifically identified documents, with the exception of e-mails and records requested in paragraph numbers 3, 4, and 5 of the FOIA request, HUD will respond on or before May 18, 2007.
4. HUD will conduct a search for records that “analyze” and “discuss” the records referred to in the subparts of paragraph numbers 1 and 2, and respond to the FOIA request for those records, with the exception of e-mails, on or before June 18, 2007.
5. HUD has referred paragraph number 3 of the FOIA request to the HUD Office of the Inspector General. HUD will not provide any responsive documents to paragraph number 3.
6. To the extent HUD has in its possession any documents relating to studies

conducted by the Government Accountability Office requested in paragraph number 4 of the FOIA request, HUD will respond, with the exception of e-mails, on or before June 18, 2007.

7. With respect to paragraph number 5 of the FOIA request, HUD will respond, with the exception of e-mails, on or before June 18, 2007.

8. To the extent the FOIA request seeks e-mails, HUD will respond on or before July 18, 2007.

9. To the extent documents responsive to the FOIA request may be redacted or withheld pursuant to applicable FOIA exemptions, HUD will provide a Vaughn index on or before August 1, 2007.

10. With the exception of paragraph number 5 of the FOIA request, HUD will not search for any records that were created before December 30, 2005 – the date of the first appropriations statute passed in the months after Hurricanes Katrina and Rita related to the CDBG Disaster Recovery Grant Program. With respect to paragraph number 5 of the FOIA request, HUD will search for records created on or after August 29, 2005.

11. By entering into this Stipulation and Order, HUD does not waive any of its rights under FOIA including its right to object to any portion of the FOIA request that does not reasonably identify records sought and its right to redact or withhold records pursuant to applicable FOIA exemptions.

12. By entering into this Stipulation and Order, plaintiff does not waive any of its rights under FOIA including its right to challenge HUD's withholding or redacting of records in whole or in part pursuant to FOIA exemptions.

13. The parties may agree to extend any of the deadlines set forth in this Stipulation

and Order without approval of the Court.

14. This action is hereby stayed pending the parties' compliance with the terms of this Stipulation and Order.

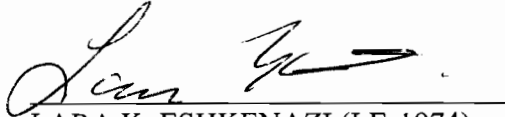
15. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

16. Entry of this Stipulation and Order does not confer prevailing party status upon plaintiff under the fee shifting provision of FOIA, 5 U.S.C. § 552(a)(4)(E).

Dated: New York, New York
May 10, 2007

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for the United States Department of
Housing and Urban Development

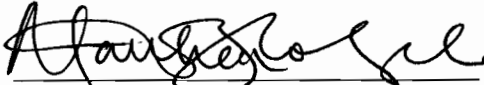
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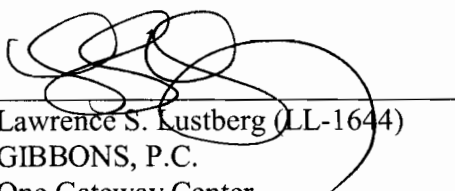
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Dated: New York, New York
May 9, 2007

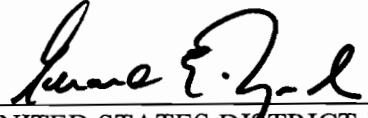
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Attorneys for Plaintiff


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Dated: Newark, New Jersey
May 9, 2007

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Attorneys for Plaintiff

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Newark, New Jersey 07102-5310

SO ORDERED:


UNITED STATES DISTRICT JUDGE
5/10/07